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UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF LOUISIANA

SHREVEPORT DIVISION

EARL KING HARRISON

versus

CIVIL ACTION NO. 06-1198
JUDGE TOM STAGG

SHERIFF LARRY C. DEEN, ET AL.

MEMORANDUM ORDER

Before the court is a document entitled "Notice Of Complaint" filed pro se by Earl King Harrison ("Harrison"). See Record Document 7. This court will construe this filing as an appeal, as the plaintiff complains of a ruling by Magistrate Judge Mark Hornsby regarding the request for an injunction. Based on the following, Magistrate Judge Hornsby's order is set aside pending further proceedings.

In an order signed on August 11, 2006, Magistrate Judge Hornsby denied Harrison's motion for preliminary injunction and/or temporary restraining order.


See Record Document 5. In the order, the magistrate denied the request on the showing made. See id. Harrison then appealed the ruling, principally contending that the magistrate judge lacked authority to rule on his motion. See Record Document 7.

Any party may appeal a magistrate judge's ruling on a non-dispositive matter to a district court judge under Rule 72(a) of the Federal Rules of Civil Procedure and Local Rule 74.1 M & W. The decision by Magistrate Judge Hornsby to deny the request for a preliminary injunction and/or temporary restraining order was not, however, a non-dispositive matter. To the contrary, the matter falls under Rule 72(b) of the Federal Rules of Civil Procedure and, thus, should have been addressed via a report and recommendation to the district judge. See also 28 U.S.C. § 636(b)(1)(A) (stating that "a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief. . .").

The motion should not have been ruled upon by the magistrate judge. Accordingly, the motion for temporary restraining order and/or preliminary injunction is hereby **REINSTATED** and will be considered by the court in due course, along with the merits of the case. Therefore;

IT IS ORDERED that Magistrate Judge Hornsby's Order of August 11, 2006
(Record Document 7) be and is hereby set aside.

THUS DONE AND SIGNED at Shreveport, Louisiana, this 23rd day of
August, 2006.


JUDGE TOM STAGGS